



12650 DETROIT AVENUE ■ 44107 ■ 216-529-6075 ■ 216-529-6806

Reference No. BC-19-007

January 14, 2019

Board of Control  
City of Lakewood, Ohio 44107

**Subject: Award Contract – Professional Services Contract Re: Laboratory Analysis Services – Water Dept.**

Dear Members of the Board:

Based on a review conducted by the Division of Purchasing in conjunction with the Department of Public Works; Division of Water Distribution, and the attached letter of recommendation, I am submitting for your consideration this request to award a Professional Services contract to Pace Analytical Services, Inc. in an amount not to exceed \$10,000 to provide Laboratory Analysis Services for the Division of Water. Contract award is for Fiscal Year 2019.

Pace Analytical Services, Inc. was chosen to perform these Professional Laboratory Analysis Services due to their expertise in the industry, and they are one of only (3) US EPA certified labs to provide in-house compliance sampling.

|                           |  |
|---------------------------|--|
| Contracting Authority:    | Ordinance 50-18 \$25,000   |
| Contracting Balance:      | \$25,000 / \$15,000  |
| Funding:                  | Enterprise Fund  |
| Account Distribution:     | 501-3062-431-30-11 \$32,000  |
| Account Balance:          | \$32,000 / \$22,000  |
| Contract Approved by Law: | Yes <input checked="" type="checkbox"/> / No <input type="checkbox"/> / PO <input type="checkbox"/> / c/c <input type="checkbox"/> |
| Object Code:              | Professional Services - Lab Analysis Fees  |
| Commodity Code:           | 961-048  |
| Bid Reference:            | Professional Service   |

  
Kim Smith  
Purchasing Manager

|  | <u>Approved</u>   | <u>Disapproved</u> | <u>Date</u> |
|--|---|--------------------|-------------|
| Joseph J. Beno PE,<br>Director of Public Works |  | _____              | 1/14/19     |
| Kevin M. Butler,<br>Director of Law            |  | _____              | 1/14/19     |
| Jennifer Pae,<br>Director of Finance           |  | _____              | 1/14/19     |
| Michael P. Summers,<br>Mayor                   |  | _____              | 1/14/19     |



**Pace Analytical Services, Inc.**

8 East Tower Circle  
Ormond Beach, FL 32174  
386.672.5668  
fax 386.673.4001



**For more info see: UCMR 4**

**Pace Quote No.:** Lakewood CC SW UCMR 4 Quote 062918\_FY2019

**Date:** 6/29/18

**Organization:** City of Lakewood

**Shipping:** *UCMR 4 container sets and shipping to client by FedEx Ground included. Also included is sample shipment back to Pace by FedEx Standard Overnight.*

**Street:** 1699 MetroPark Drive

**City, State & Zip:** Lakewood, OH 44107

**Contact:** Nick DelVecchio

**Email:** [nicholas.delvecchio@lakewoodoh.net](mailto:nicholas.delvecchio@lakewoodoh.net)

**Phone:** (216) 529-1867

**Project Name:** **UCMR 4 for SW or GWUDI PWSs**

**EDD:** Data uploaded into EPA CDX SDWARS by Pace

**PWS ID:** OH1801003

**Sampling Dates:** **Jan 2019, Apr 2019, Jul 2019**  
**Jun- Sep 2019**

**AM3**

**Primary Lab:** Ormond Beach

**Reqd. Certification:** EPA

**Turnaround** EPA mandated requirement is 120 calendar days

**Time (TAT):** from sampling date. Pace TAT is typically <25 business days.

**Pace Contact:** Paul Jackson

813.731.1595

[Paul.Jackson@pacelabs.com](mailto:Paul.Jackson@pacelabs.com)

**UCMR 4 Sampling Information:**

PWSs that purchase 100% of their water are not required to collect source water samples for TOC or bromide analyses. Sampling for TOC and bromide must otherwise occur at source water influent locations representing untreated water entering the water treatment plant (i.e., a location prior to any treatment).

SW/GWUDI systems subject to the D/DBPR TOC monitoring must use their D/DBPR TOC source water sampling site(s) from 40 CFR 141.132 for TOC and bromide samples.

SW/GWUDI systems that are not subject to D/DBPR TOC monitoring will use their Long Term 2 Enhance Surface Water Treatment Rule (LT2) source water sampling site(s) (40 CFR 141.703) for TOC and bromide samples.

Groundwater systems that are subject to the D/DBPRs will take TOC and bromide samples at their influents entering their treatment train.

TOC and bromide must be collected at the same time as HAA samples. These indicator samples must be collected at a single source water influent using methods already approved for compliance monitoring.

EPA estimates that 2% of all Entry Point samples taken will be analyzed for Microcystins by EPA 544. That sample is analyzed only if the Total Microcystins by EPA 546 test is  $\geq 0.3$  ug/L.



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| Total Qty.  | Matrix         | Test Description   | Method | Unit Price | Total     |
|---|----------------|--|--------|------------|-----------|
| <b>Laboratory Testing:</b>  |                |  |        |            |           |
| Number of Entry Points to The Distribution System (EPTDS) to be sampled for <b>AM3</b> (2/month for 4 consecutive months, March-November):  |                |  |        | 1          |           |
| Number of sampling events:  |                |  |        | 8          |           |
| 8   | Drinking Water | Total Microcystins   | 546    | \$139.00   | \$1112.00 |
| 8   | Drinking Water | Microcystin Congeners (analyzed only if Total Microcystins 546 of EPTDS sample is $\geq 0.3$ ug/L - EPA estimates that only 2% of all samples will require this test method) | 544    | \$55.00    | \$0.00    |
| 8   | Drinking Water | Anatoxin-a & Cylindrospermopsin  | 545    | \$249.00   | \$1992.00 |
| Number of Entry Points to The Distribution System (EPTDS) to be sampled for <b>AM1</b> (4/12 month period on a quarterly basis, January-December):  |                |  |        | 1          |           |
| Number of sampling events:  |                |  |        | 3          |           |
| 3   | Drinking Water | Metals: Germanium & Manganese  | 200.8  | \$49.00    | \$147.00  |
| 3   | Drinking Water | Pesticides and Pesticide Byproducts  | 525.3  | \$189.00   | \$567.00  |
| 3   | Drinking Water | Alcohols   | 541    | \$129.00   | \$387.00  |
| 3   | Drinking Water | Semivolatile Organics  | 530    | \$169.00   | \$507.00  |
| Number of Stage 2 Disinfectants and Disinfection Byproducts Rule Sampling Locations (D/DBPR) to be sampled for <b>AM2</b> (4/12 month period on a quarterly basis, January-December):   |                |  |        | 8          |           |
| Number of sampling events:  |                |  |        | 3          |           |
| 24  | Drinking Water | Haloacetic Acids - HAA5, HAA6 & HAA9 compounds   | 552.3  | \$179.00   | \$4296.00 |
| <b>Container set provided on a rush basis, as required:</b>   |                |  |        |            |           |
| 0   |                | Rush Container Set Handling, cost of FedEx Overnight Shipping will be added to cost  |        | \$75.00    | \$0.00    |
| Total, analysis of all samples for the monitoring period - does not include line item for Microcystin Congeners EPA 544 - see above line item description (does not include any EPA required resampling caused by shipping issues or client-taken samples received out-of-temperature): |                |  |        |            | \$9008.00 |
| Additional cost if Microcystin Congeners EPA 544 is required for all samples (analyzed only if Total Microcystins 546 of EPTDS sample is $\geq 0.3$ ug/L - EPA estimates that only 2% of all samples will require this test method):  |                |  |        |            | \$440.00  |

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***Notes:***

***Pace is certified for drinking water analysis in the following states, and is U.S. EPA approved for all UCMR 4 test methods in all states:***

**AL, AZ, CO, CT, FL, GA, HI, IL, IN, KS, KY, LA, ME, MA, MI, MS, MO,  
MT, NV, NH, NJ, NY, NC, PA, TN, TX, VA, WA, WV, WI, WY,  
Puerto Rico, U.S. Virgin Islands, and Guam.**

If you have specific questions about any conditions noted below please contact your Pace Analytical Representative.

- Proposal expires 60 days from created date above, unless accepted, signed and returned.
- Quoted prices include standard Pace Analytical QA/QC, reporting limits, compound lists and standard report format unless noted otherwise.
- If project specific MS/MSD samples are submitted, they may be billable.
- TAT (Turn-around Time) is in working/business days unless otherwise specified above.
- To ensure requested TAT is available, please coordinate with your Pace Analytical Project Manager at time of sample submittal.
- Any deviation from the above quoted scope of work, including sample arrival date and volume, may result in adjustment of prices.
- Please include Quote Number on Chain-of-Custody to ensure proper billing.
- Pricing includes FedEx Ground delivery of bottle/sample kits and coolers.
- Charges will apply for non-standard shipping and for projects where shipping exceeds 10% of the total analytical costs of the shipment.
- Sample containers can't be reused by the lab once they have been distributed to a client. Pace reserves the right to charge for returned unused containers.
- Disposal fees apply to all samples placed on hold and not analyzed.
- Samples are retained by Pace for 30 days after sample receipt.

***We appreciate the opportunity to be of service to you.  
Please call Paul Jackson at 813-731-1595 for questions concerning this quote.***



## **Pace Analytical Services, Inc.**

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### **Pace Analytical Services, Inc. - TERMS & CONDITIONS**

1. Controlling Provisions - These Standard Terms and Conditions ("Terms") govern the agreed-upon services (the "Project") that Pace Analytical ("Pace") will perform on behalf of \_\_\_\_\_ ("Client") (collectively, the Parties) and superseded any other written provisions (including purchase/work orders) related to the Project, as well as prior discussions, courses of dealing, or performance.

2. Warranty - Pace hereby warrants that it will: 1) conduct all tests and observations using the protocols and laboratory procedures as specified in accepted task orders, scopes of work, proposals, or written instructions ("Contract Paperwork"); and 2) uphold the reasonable scientific and engineering standards in effect in the industry at the time the service/s is/are performed. If Client subsequently, including pursuant to an executed amendment, direct different procedures and/or protocols, which may or may not involve the use of any third-party laboratory or contractor, Pace cannot warrant the results and ~~Client shall hold Pace harmless from all claims, damages, and expenses arising from Client's direction.~~ *PRJ* *shall not be liable for* *yes*

3. Data - Pace will provide Client with data as specified in the Contract Paperwork. Following final report issuance, Pace will retain back-up data for up to three (3) years and final reports for up to five (5) years. Pending Client's payment in full for Pace's contracted services, Pace may retain any Client data not already released.

4. Intellectual Property/Ownership - Pace shall retain sole ownership of any new method, procedure, or equipment it develops or discovers while performing services pursuant to the Contract Paperwork.

5. Non-competition - Client shall not solicit or recruit Pace personnel for at least 12 months following the termination of the Project governed by these Terms.

6. Sample Delivery, Acceptance, and Containers - Client shall provide Pace with at least 10 business days' prior written notice of the delivery of any sample(s). Within 72 hours following Client's notice, Pace shall issue a written rejection of the sample(s) or its acceptance may be presumed. Notwithstanding the foregoing, Client shall remain liable for any loss or damage to the sample(s) until Pace evidences its acceptance on the chain of custody documents. Pace reserves the right to charge for any sample container(s) that are: a) provided to, but not used, by Client; or b) received by Pace, but not analyzed at Client's request.

7. Sample Storage and Disposal - Pace shall dispose of any non-hazardous sample(s) within 30 days following the issuance of Client's final report. In addition, Pace may return, and Client must accept, any/all highly hazardous, acutely toxic, or radioactive sample(s), sample containers, and residues, as well as any/all sample(s) for which no approved method of disposal exists.

8. Non-Assignment - Neither party may assign or transfer any rights or obligations existing under these Terms without prior written notice to the other party, except that Pace may, without notice to its Client: a) transfer the Project to another Pace laboratory; or 2) subcontract the Project to a third-party laboratory.

9. Time of Completion; Force Majeure - Pace shall use its best efforts to accomplish the Project within any specified time limitations. Pace shall not be held responsible for any non-performance or delay caused by Client, Client's employee, agents, or contractors, or factors or events beyond Pace's control, such as government shutdowns, natural disasters, labor strikes or acts of God.

#### 10. Compensation -

a) The pricing offered to Client by Pace is predicated upon Client's acceptance of these Terms. In most cases, the pricing includes all sample containers and preservatives as prescribed by the analytical method requested for each determination. Credit worthiness will be determined based upon an assessment of Client's payment history, credit reports, financial stability, and/or other factors. If Pace is serving as a subcontractor for Client, Pace may seek and receive information about the Prime Client prior to granting credit. If credit is not granted, Client must pay Pace prior to initiation of the Project.

b) Client agrees to pay for services as documented by Pace and accepted by Client. Payment terms for uncontested invoice items are net 30 days. Client must notify Pace in writing within 15 days of its receipt of the invoice in order to suspend its payment and interest obligations for any disputed invoice items pending resolution. Beginning 30 days after the invoice date, Pace may charge interest on all unpaid and undisputed balances at the rate of 1.5% per month, not to exceed the maximum rate allowed by law. Client may ask Pace to invoice a third party, although Client shall remain ultimately responsible for the payment of any outstanding balance.

c) Client's failure to pay within 60 days of Pace's dated invoice shall constitute a material breach of these Terms, for which Pace may terminate all of its duties hereunder without liability. If Pace must subsequently take action to collect payment, Client shall pay all associated costs thereof, including attorneys' fees. Any significant changes to the scope of work following the submittal of a price quotation or the delivery of samples to the laboratory are subject to a renegotiation of prices and/or terms relating to the original scope of work. Qualifying changes may include, but are not limited to: QA/QC requirements and procedures; detection limits; samples received and stored, but not analyzed; a decrease in quantity of samples delivered compared to quantity quoted; and reporting and other deliverable format requirements. Pace shall not be required to comply with such changes unless Pace agrees to them in writing.

11. Risk Allocation and Damages - Client accepts that the Project may involve inherent risks and that Pace cannot always guarantee satisfactory results.

Notwithstanding the foregoing, if a court of competent jurisdiction finds that Pace failed to meet applicable standards and if Client suffers damages as a result, Pace's aggregate liability for its negligence or unintentional breach of contract shall not exceed the total fee paid for its services.

This limitation shall not apply to losses arising from Pace's negligence or willful misconduct, so long as:

- a) Client notifies Pace within: 30 days from the date of discovery of Pace's claimed negligence or misconduct; or two years from the date of the Client's claimed losses; and
- b) Pace is allowed to investigate and, insofar as possible, mitigate Client's claimed losses.

Neither Pace nor Client shall be liable to the other for special, incidental, consequential, or punitive losses, except as allowed in Section 12. Client Responsibilities below.



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**Pace Analytical Services, Inc. - TERMS & CONDITIONS - Continued**

**12. Client Responsibilities - Client shall:**

- a) Provide Pace with full and complete information about all known or reasonably knowable factors that could affect Pace's ability to perform its obligations, and promptly notify Pace if it discovers same following Project Initiation;
  - b) Enable access by Pace personnel and/or subcontractor to any site where Pace is to perform work, and to all Client personnel who are critical to the success of the Project;
  - c) Obtain, on behalf of Pace, any authority or permission required by any third party;
  - d) Provide Pace with at least 10 business day's notice of any known or reasonably knowable delay regarding the start-up, progress, or completion to the Project; and
  - e) Pay for Pace's reasonable costs to perform any out-of-scope services, such as compliance audits, responding to subpoenas, etc.
- If Client defaults on any of these responsibilities and Pace incurs labor and/or material costs as a result, Client shall reimburse Pace for its actual expenses, as well as any lost profits directly attributable to Client's default.

**13. Indemnification -** Pace shall indemnify and hold Client harmless from and against any demands, losses, damages, and expenses caused by Pace's negligence or willful misconduct, as well as by the negligence and willful misconduct by persons for whom Pace is legally responsible. ~~Client shall likewise indemnify and hold Pace harmless from and against the demands, losses, damages, and expenses caused by Client's negligence or willful misconduct, including Client's use of Pace's name and/or registered mark for anything other than the specific purpose for which it was intended. In addition, Client shall fully indemnify Pace from and against any and all claims by a third party, as well as for all related losses, costs, fees, damages, liabilities or expenses arising out of or relating to Client's breach of these Terms or its violation of applicable laws.~~

**14. Insurance -** Pace carries liability insurance with limits as follows:

General Liability - \$1,000,000 each occurrence; \$2,000,000 general aggregate;  
Personal and Advertising Injury - \$1,000,000;  
Automobile Liability - \$1,000,000 combined single limit;  
Excess Liability Umbrella - \$5,000,000 aggregate; \$5,000,000 each occurrence;  
Worker's Compensation Insurance - statutory limits; and  
Professional Liability - \$5,000,000 aggregate, \$5,000,000 per claim  
Pace will, at Client's request, submit certificates of insurance showing limits of coverage.

**15. Amendments/Change Orders -** Any attempt to modify, vary, supplement, or clarify any provision of these Terms is of no effect unless reduced to writing and signed by both Parties. Any such changes may increase the amount due Pace and affect Pace's obligations towards Client (see Section 2. Warranty).

**16. Confidentiality -** Each party agrees that if, during the performance of the Project, it becomes aware of any confidential or proprietary information of the other, it will not disclose such information except to those employees, subcontractors, or agents who have expressly agreed to maintain confidentiality.

**17. Miscellaneous Provisions -**

- a) These Terms supersede all prior negotiations and agreements, written or oral, between Pace and Client with respect to this matter; in no event will other terms - excepting those contained in any individual task order(s) relating to this matter - be considered part of these Terms.
- b) In the absence of an executed agreement between the Parties, the delivery of any sample(s) to a Pace laboratory will constitute acceptance of these Terms by Client.
- c) These Terms shall be construed and interpreted in accordance with the laws of the State of Minnesota without giving effect to the principles of conflicts of law thereof.
- d) Client may publicly identify Pace's role as its testing laboratory so long as it immediately retracts or eliminates all such references upon termination of these Terms or Pace's written request.
- e) For purposes of these Terms, the Parties may use and rely upon electronic signatures and documents for the execution and delivery of these Terms and any amendments, notices, records, disclosures, or other documents of any type sent or received in accordance with these Terms.
- f) Pace is an independent contractor; no employer/employee relationship shall arise as a result of the Project.
- g) These Terms shall be binding upon, and inure to the benefit of, the Parties and their respective successors and assigns.

**Additional Pricing Considerations:**

I have read and understand these terms and conditions:

Printed Name: Joseph Beno

Signature: Joseph Beno

Date: 1/14/19

**Approved As To Legal Form:**

Director of Law, City of Lakewood